

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**RESOLUTION R2-2005-0063**

AMENDING THE WATER QUALITY CONTROL PLAN  
FOR THE SAN FRANCISCO BAY REGION  
TO ESTABLISH A WATER QUALITY ATTAINMENT STRATEGY  
AND TOTAL MAXIMUM DAILY LOAD (TMDL)  
FOR DIAZINON AND PESTICIDE-RELATED TOXICITY  
IN BAY AREA URBAN CREEKS

WHEREAS an updated Water Quality Control Plan for the San Francisco Bay Region (Basin Plan) was adopted by the San Francisco Bay Regional Water Quality Control Board (Water Board) on June 21, 1995, approved by the State Water Resources Control Board on July 20, 1995, and approved by the Office of Administrative Law (OAL) on November 13, 1995, and has since been revised; and

WHEREAS the Basin Plan may be amended in accordance with California Water Code § 13240, et seq.; and

WHEREAS Bay Area urban creeks are not consistently meeting the Basin Plan's narrative water quality objectives pertaining to toxicity, sediment, and population and community ecology; and

WHEREAS toxic discharges jeopardize aquatic life, impairing established beneficial uses, including warm and cold freshwater habitat; and

WHEREAS thirty seven (37) urban creeks have been identified under federal Clean Water Act § 303(d)(1) as impaired waters due to toxicity attributed to diazinon. They are, in *Alameda County*, Alameda Creek, Arroyo de la Laguna, Arroyo de las Positas, Arroyo del Valle, Arroyo Mocho, San Leandro Creek, and San Lorenzo Creek; in *Contra Costa County*, Mount Diablo Creek, Pine Creek, Pinole Creek, Rodeo Creek, San Pablo Creek, Walnut Creek, and Wildcat Creek; in *Marin County*, Arroyo Corte Madera del Presidio, Corte Madera Creek, Coyote Creek, Gallinas Creek, Miller Creek, Novato Creek, San Antonio Creek, and San Rafael Creek; in *San Mateo County*, San Mateo Creek; in *Santa Clara County*, Calabazas Creek, Coyote Creek, Guadalupe River, Los Gatos Creek, Matadero Creek, Permanente Creek, San Felipe Creek, San Francisquito Creek, Saratoga Creek, and Stevens Creek; in *Solano County*, Laurel Creek, Ledge wood Creek, and Suisun Slough; and in *Sonoma County*, Petaluma River; and

WHEREAS all Bay Area urban creeks are similarly impaired, including those not formally designated as impaired pursuant to Clean Water Act § 303(d)(1); and

WHEREAS the U.S. Environmental Protection Agency (U.S. EPA) phased out residential end use diazinon products (i.e., essentially all urban diazinon uses) at the end of 2004, which has increased the use of alternative pesticides and encouraged new pesticides to enter the marketplace; and

WHEREAS some diazinon alternatives pose water quality concerns, and pyrethroids in particular may now cause sediment toxicity in some Bay Area urban creeks; and

WHEREAS under Clean Water Act § 303(d)(1) the Water Board is required and authorized to establish a total maximum daily load (TMDL) for those pollutants identified as causing impairment of waters on the § 303(d) list. Additionally, under Clean Water Act § 303(d)(3) the Water Board is authorized to establish the TMDL for pollutants not identified as causing impairment of waters on the § 303(d) list. Also, Water Code § 13241 authorizes the Water Board to adopt the TMDL to implement water quality objectives; and

WHEREAS a Basin Plan amendment has been prepared in accordance with California Water Code § 13240 et seq. to establish a water quality attainment strategy and TMDL to reduce diazinon and pesticide-related toxicity in urban creeks as a program of implementation to achieve water quality objectives under Water Code § 13242, to comply with the Clean Water Act's requirement for the Water Board to adopt a TMDL for § 303(d)(1) listed waters, and to restore and protect beneficial uses; and

WHEREAS the Basin Plan amendment addresses the Petaluma River watershed's urban pesticide discharges only and a future TMDL may be necessary to address Petaluma River agricultural sources, if any; and

WHEREAS the Basin Plan amendment, including specifications on its physical placement in the Basin Plan, is set forth in Exhibit A hereto; and

WHEREAS in addition to including a diazinon concentration target, the Basin Plan amendment includes generic pesticide-related toxicity targets to comply with the applicable narrative water quality objectives, which relate to toxicity; to account for potential effects of chemical mixtures; and to account for pesticide use changes over time; and

WHEREAS gaps in regulatory program implementation allow pesticides to be used in ways that result in discharges that threaten water quality. The water quality attainment strategy recognizes that the most efficient means of protecting water quality from potentially toxic pesticide discharges is for pesticide regulatory agencies, including U.S. EPA and the California Department of Pesticide Regulation, to assist the Water Board in ensuring that pesticide applications do not result in runoff that violates water quality standards; and

WHEREAS external peer scientists Dr. David Sedlak of the University of California, Berkeley, and Dr. Alan Felsot of Washington State University, TriCities, reviewed the regulatory elements of the Basin Plan amendment to ensure that the scientific portions are based on sound scientific knowledge, methods, and practices; and

WHEREAS the Basin Plan amendment, Staff Report, and Environmental Checklist were distributed for public review and comment for 45 days beginning August 5, 2005 in accordance with applicable state and federal laws and regulations; and

WHEREAS Water Board staff revised the Basin Plan amendment in response to the comments from the scientific peer reviewers and the public, or provided written explanations for making no changes; and

WHEREAS a Notice of Public Hearing was given to interested persons and was published in accordance with applicable state and federal laws and regulations. The Water Board held public hearings on October 19, 2005, and November 16, 2005, to consider the Basin Plan amendment and supporting documents, and the changes made thereto in response to comments; and

WHEREAS the basin planning process has been certified by the Secretary for Resources as exempt from the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 et seq.) to prepare an Environmental Impact Report or Negative Declaration; and

WHEREAS the Water Board has duly considered the Environmental Checklist, Staff Report, and supporting documentation with respect to environmental impacts and finds that the Basin Plan amendment will have no significant adverse impact on the environment, including wildlife. The Water Board has also considered the environmental analysis contained in the Staff Report of the reasonably foreseeable methods of compliance with the Basin Plan amendment, including economics; and

WHEREAS the Water Board has carefully considered all comments and testimony received, including responses thereto, on the Basin Plan amendment, as well as the evidence in the administrative record; and

WHEREAS the Basin Plan amendment must be submitted for review and approval by the State Water Resources Control Board, OAL, and U.S. EPA. Once approved by the State Water Resources Control Board, the Basin Plan amendment will be submitted to OAL. Once approved by the OAL, the Basin Plan amendment will be submitted to U.S. EPA. The Basin Plan amendment will become effective upon U.S. EPA approval.

NOW, THEREFORE BE IT RESOLVED that the Water Board adopts the Basin Plan amendment, as set forth in Exhibit A hereto, that establishes the Water Quality Attainment Strategy and TMDL for Diazinon and Pesticide-Related Toxicity in Bay Area Urban Creeks; and

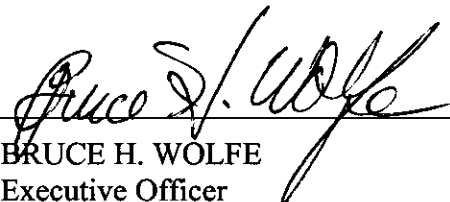
BE IT FURTHER RESOLVED that the Executive Officer is directed to forward copies of the Basin Plan amendment to the State Water Resources Control Board in accordance with California Water Code § 13245; and

BE IT FURTHER RESOLVED that the Water Board requests that the State Water Resources Control Board approve the Basin Plan amendment in accordance with California Water Code § 13245 and § 13246, and forward it to OAL and U.S. EPA for approval; and

BE IT FURTHER RESOLVED that if, during the approval process, the State Water Resources Control Board or OAL determines that minor, non-substantive corrections to the language of the amendment and supporting documentation are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Water Board of any such changes; and

BE IT FURTHER RESOLVED that since the Basin Plan amendment will involve no potential for adverse effect, either individually or cumulatively, on wildlife, the Executive Officer is directed to sign a Certificate of Fee Exemption for a "De Minimis" Impact Finding and to submit the exemption in lieu of payment of the Department of Fish and Game CEQA filing fee.

I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on November 16, 2005.

  
BRUCE H. WOLFE  
Executive Officer

Attachment

Exhibit A: Basin Plan Amendment—  
Water Quality Attainment Strategy and Total Maximum Daily Load  
(TMDL) for Diazinon and Pesticide-Related Toxicity in Bay Area Urban  
Creeks